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11 Fluidigm Corporation, Inc.

12 **IN THE UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 ILLUMINA, INC.,

15 Plaintiff/Counterclaim-
16 Defendant,

17 v.

18 NATERA, INC.,

19 Defendant/Counterclaim-
20 Plaintiff.

Civil Action No. 5:18-CV-01662-SI

**THIRD PARTY FLUIDIGM
CORPORATION, INC.'S RESPONSE IN
SUPPORT OF DEFENDANT/
COUNTERCLAIM -PLAINTIFF
NATERA, INC.'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF EXHIBIT B TO THE
PARTIES' JOINT STIPULATION**

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1 Non-Party Fluidigm Corporation, Inc. (“Fluidigm”) submits this response in support of
 2 Defendant/ Counterclaim-Plaintiff Natera, Inc.’s (“Natera”) Motion to File Under Seal Portions of
 3 Exhibit B to the Parties’ Joint Stipulation (“Motion to Seal”).

4 Natera filed its Motion to Seal on August 15, 2019, seeking to file under seal certain
 5 documents Fluidigm produced in response to a subpoena and that were marked “Confidential” or
 6 “Outside Attorney’s Eyes Only” pursuant to the Protective Order in this action. The documents
 7 that are the subject of the current Motion to Seal were subject to a previous a motion to seal, which
 8 this Court granted by order dated May 10, 2019. (*See* Dkt. 122 at fn. 1). In support of the
 9 previous motion to seal, Fluidigm submitted the Declaration of David King (“King Declaration”)
 10 setting forth the grounds for its confidentiality designations. (*See* Dkt. 106).

11 For the same reasons, Fluidigm requests the Court grant the Motion to Seal for the
 12 following documents, which contain confidential Fluidigm business information and should be
 13 sealed from the public record:

- 14 a. Portions of Natera’s Second Amended Invalidity Contentions that refer to
 15 Fluidigm’s confidential information concerning its library preparation methods and
 16 preamplification strategy (p. 4, ln. 20-23).
- 17 b. Portions of Exhibit B to Natera’s Second Amended Invalidity Contentions that
 18 refer to and quote Fluidigm’s confidential information.
 - 19 i. Pages 9-13, 14-17, and 18-20 which refer to and include pictures from
 20 Fluidigm documents bates labeled FLUIDIGM 000759-000772, 000977-
 21 000979, 001001-001007, 001483, 001493, 001504, and 001509. (*See* King
 22 Decl., Dkt. 106 at ¶¶ 3-4).
 - 23 ii. Pages 22-26 and 27 referring to Fluidigm documents bates labeled
 24 FLUIDIGM 001302, 001512¹, and 001417. (*See* King Decl., Dkt. 106 at ¶
 25 3d-e, ¶ 4).

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 27
 28 ¹ *See* King Declaration at paragraph 3.e regarding improper reference to FLUIDIGM 001512.

As set forth in the King Declaration, each of these documents contains highly confidential Fluidigm information, including its experimental data and strategies. This information is only disclosed to a limited number of Fluidigm employees or those who have signed a confidentiality agreement, and it provides Fluidigm a competitive advantage over other similarly situated companies. (*See* King Decl., Dkt. 106 at ¶¶ 3-4). Fluidigm employees have an obligation to maintain the confidentiality of these documents, as well as Fluidigm's research and development work. (*Id.* at ¶ 5).

In addition, at page 29 of Exhibit B, Natera references and includes a picture of the document bates labeled FLUIDIGM 001459. This document was not specifically referenced in the original motion to seal, but it contains substantially similar experimental data, which as Mr. King detailed, is highly confidential as it describes experiments and design considerations for Fluidigm's Access Array System.

Fluidigm accordingly requests the Court maintain the redactions submitted by Natera and grant the pending Motion to Seal as to each of the documents referenced herein.

Dated: August 19, 2019

BRYAN CAVE LEIGHTON PAISNER LLP

By: /s/ Tracy M. Talbot
Tracy M. Talbot

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Fluidigm Corporation, Inc.